

WISCONSIN DEPARTMENT OF CHILDREN AND FAMILIES
Division of Family and Economic Security
Bureau of Child Support

To: Child Support Directors
Child Support Supervisors or Lead Workers
Child Support Attorneys

**CHILD SUPPORT
BULLETIN**

No.: 14-02

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From: Director
Bureau of Child Support

Subject: Jurisdiction and Venue for Child Support Services

This Bulletin replaces and makes obsolete CSB12-12 Jurisdiction and Venue for Child Support Services. It includes updated information on Child Support Agency (CSA) responsibility in change of venue requests.

Purposes

This bulletin clarifies BCS jurisdiction and venue policy regarding which county must provide child support services when a party moves to a different county. It reaffirms BCS policy against court dismissals after paternity has been established, and it summarizes existing BCS policies on jurisdiction and venue.

Background

BCS receives numerous questions regarding which county should handle a case and has found that child support agencies sometimes inappropriately transfer cases to other CSAs. Inappropriate venue changes are problematic because they cause disruption in services, consistency and continuity are lost in the case management process, and CSA and Clerk of Court workloads increase as a result of multiple court cases. The policy in this bulletin should be applied in conjunction with CSB14-01, Case Consolidation and Transfer of Arrearages.

Policy

In general, child support services must be provided by the CSA in the county where the court action was started, unless there is a formal change of venue under Wis. Stat. § 801.52 or the case is dismissed. In general, once an action is started and the NCP has been served, the CSA may not dismiss the action in order to transfer a IV-D/KIDS case to another county.

Interstate Case Policy

If an action has been initiated in a county and sent to another state, the county that initiated the interstate action must retain the case, whether or not the interstate paperwork was filed with the clerk of courts and whether or not the CP moves to another county in Wisconsin.

Intrastate Case Policy

In intrastate cases, the CSA where the child lives and where the custodial person applies for public assistance or IV-D services is responsible for providing child support services for that family, regardless where the NCP lives. If either party later relocates within Wisconsin during the court proceedings, do not transfer the case to another county. If, however, the CSA was unable to serve

the NCP, resulting in dismissal of the case, and the CP moves to another county, the first county may then transfer the case.

Example 1: Child, CP and NCP live in County A, which initiates a child support action. The NCP moves to County B. County A remains the county responsible for this case.

Example 2: Child, CP and NCP live in County A, which initiates a child support action. The CP then moves to County B. County A remains the county responsible for the case.

Example 3: Child, CP and NCP live in County A, which initiates a child support action. County A attempts, but fails to serve the NCP, and has to dismiss its case. In the meantime, the NCP moves to County B. County A remains the county responsible for this case.

Example 4: Child, CP and NCP live in County A, which initiates a child support action. County A attempts, but fails to serve the NCP and has to dismiss its case. In the meantime, the CP moves to County B. County A should transfer the KIDS case to County B.

Exception: if an NCP applies for services in the county where he lives before the CP applies for services or public assistance in a different county, the CSA in the NCP's county is responsible for services.

CSAs must not dismiss court cases after paternity has been established.

Occasionally a CSA will dismiss a court case after paternity is established and/or birth costs are paid in full. This is not appropriate because it causes a delay in services if the parties separate and support becomes an issue. After paternity has been established and/or birth costs have been recouped, do not dismiss the court case. If the parties later separate, the county in which paternity was established will need to file a motion for child support if requested by the CP or when the CP receives assistance.

Example: County A files a paternity action, and establishes paternity and birth costs. The CSA does not request an order for child support, because the NCP and CP live together. Although further child support services are not needed at the time, County A must not dismiss the court case. If the parties later separate, County A will need to file a motion for child support if requested by the custodial parent or the CP receives aid.

Court cases should remain in the county with original jurisdiction.

Wis. Stat. § 767.281(2)(a) provides that a petition, motion, or order to show cause for enforcement or modification may be filed in the county where the original judgment or order was rendered, *or in the county where the minor children reside*. This statute permits filing an action to modify or enforce an order in a county other than the county where the court case originated.

CSAs are not required to provide services to enforce or modify another county's court case in the county where the minor children now reside and should not use this section to file duplicative actions. If a CP or NCP files an action in the county where the children reside instead of the county where the original order was entered, the party bringing the motion is required to send a copy of the pleadings and any order rendered to the clerk of courts where the original judgment or order was rendered.

We believe that the intent of this statute is not to change venue, but to ensure that the county with the original court case has full information about the pleadings and any subsequent order entered by a court in another county. Under BCS policy, the original county CSA must enter the terms of the new order under the original KIDS case(s) with notes, and the *original* county must continue to provide child support services to enforce the new order entered by the court in another county.

CSAs are not obligated to change venue solely for the convenience of the parties.

If a party, their attorney, or the court moves for a change of venue, the CSA must evaluate the motion. Unless the motion is made for the purpose of properly consolidating cases, the CSA should respond as follows:

- The CSA *must object* to requests made in court during proceedings or to changes in venue made by the court upon its own motion. The CSA should advise the court of BCS policy regarding change of venue and object to venue changes for any reason other than consolidation. The exception to objecting to a change of venue is when the court finds that both parties have left the county and attendance at court hearings in the original county creates difficulty for both parties.
- The CSA *may, at its own discretion, object* to formal change-of-venue motions appropriately filed by parties for their convenience.

Upon request, DCF legal counsel will help CSAs draft the response to change of venue motions. These requests must be submitted via KIDPOL.

Venue change for prior actions is allowed when a divorce order is in place.

A divorce order supersedes any prior court actions. The CSA in the county where the divorce order was obtained is responsible for providing child support services to those parties. If there were any prior child support actions affecting the parties in another county, and such actions have remaining balances, BCS prefers that they be consolidated into the new action. CSA's are not required to change venue in order to consolidate these cases, but either county may seek a change of venue of the earlier action for purposes of consolidation. If, however, the previous case was for arrears owed on cost debts only, the previous CSA may continue to collect on those outstanding debts.

Example: County A has a court order to compel support on a case. The parties then marry and subsequently divorce in County B. County B is responsible for that case. County A is responsible for collecting any arrears remaining under the previous action unless venue is changed. If venue is changed, then the arrears on the prior case should be consolidated into the County B case by County B.

Counties should not consolidate balances under a new action until a final divorce judgment, paternity judgment, or order under Wis. Stats. § 767.805 or §767.501 is obtained in the new action. As part of the final judgment, the court may approve a change of venue and/or incorporate balances and the terms of the old action into the new action. The court may also enter a separate order or approve a stipulation to transfer balances.

When appropriate, CSAs may initiate change of venue motions by following the guidelines in the Child Support Bulletin 14-01 on Case Consolidation and Transfer of Arrearages. Instructions for linking and unlinking the court case number in KIDS can be found in the Court Order Entry fact sheet. However, the court case number should not be unlinked until the CSA in the county receiving the court case confirms that they received the paperwork and are ready to link the case to their county.

When unmarried parents have a second child in a different county, the county where the child lives is responsible for establishing paternity for that child, not the county that has the first child's paternity case or Voluntary Paternity Acknowledgment (VPA) case.

Sometimes unmarried parents move and have another child in a county other than the county that is handling their previous child support order. The county where the new child lives is responsible for establishing paternity for the new child, either through a paternity action or a VPA. If a VPA is signed, and the CP applies for services or is on aid, the new county must also commence an action for child support under Wis. Stat. § 767.805. CSAs are not required to change venue in order to consolidate these cases, but either county may seek a change of venue of one of the actions for purposes of consolidation in the new county. After the venue changes, the new county should follow the general consolidation principles (consolidate older cases into newer ones and PA cases into FA cases.)

The following examples illustrate the proper application of this policy.

Example 1: County A has a child support order in a paternity action. (PA case) The CP and NCP move to County B and have a 2nd child. A VPA is filed for that child. CP is on aid so County B must file an action for child support under Wis. Stat. §767.805 (FA case) as the 2nd child cannot be added to the paternity action in County A. Following support establishment, if venue is changed on the first case from County A to County B, the cases can be consolidated in County B under County B's FA number.

Example 2: A VPA is filed in County A and a support order is established. (FA case) Parties move to County B and have a 2nd child. County B establishes paternity and obtains a child support order for 2nd child (PA case). If venue of the FA case in County A is changed to County B, a new FA case is created and both cases would be consolidated into the new FA case.

If a change in venue is granted, the clerk of court with the original court case transfers the physical court file to the new county. To avoid disruption, the CSA in the county with the original case must continue to provide child support services on the case until the receiving county confirms that the file has been received.

When there is no court ordered support for a child placed in foster care, the CSA in the county that placed the child is responsible for providing child support services.

Occasionally a child is placed in a foster care home that is located in a different county. When a child lives in a county different from the county that placed the child, the CSA in the county that placed the child is responsible for providing services.

Example 1: County A Social Services placed a child in foster care. The foster care placement is located in County B. Although the CP lives in County A, the child lives in County B. Even though the child lives in County B, County A is responsible for the case.

After a court case is started for a child in foster care or kinship care, the county where the original order was entered must retain the case. This includes situations where the obligations on the original court case have been paid in full, but the case was not dismissed.

Example 2: County A established paternity and a child support order for a child. The CP and child then move to County B. County B places the child in foster care located in County C. Although the CP is living in County B and the child is living in County C, County A is responsible for the case. This is because County A established paternity and the initial child support order for the NCP. Now County A is responsible for setting a child support order for the CP.

Exception: If there are multiple children placed in care, and the children have different fathers, the county where the children are placed in care should start a new single action to set support for the mother. This will prevent multiple actions against the mother and keep the mother's payments under a single child support order.

Summary

When dealing with jurisdiction and venue issues, CSAs must adhere to the following principles:

- In interstate cases, the CSA that initiates the interstate action must retain the case.
- In intrastate cases, the CSA where the child lives, and where the custodial person applies for public assistance or IV-D services is responsible for providing child support services for the family, regardless where the NCP lives. Exception: if an NCP applies for services in the county where he/she lives prior to the CP applying for services or public assistance in a different county, the CSA in the NCP's county is responsible for services.
- CSAs must not dismiss court cases once paternity has been established.
- Court cases should remain in the county with original jurisdiction.
- CSAs are not obligated to change venue solely for the convenience of the parties.
- Venue change for prior actions is allowed when a divorce order is in place. Counties may seek a change of venue following a divorce for purposes of consolidation.
- When unmarried parents have a second child in a different county, the county where the child lives is responsible for establishing paternity.
- When there is no court ordered support for a child placed in foster care, the CSA in the county that placed the child is responsible for providing child support services.

Resources:

CSB14-01 Case Consolidation and Transfer of Arrearages
[Wis. Stat. §767.281\(2\)](#)(a) Support or maintenance orders